

By

Andrew

S.B. No. 1245

A BILL TO BE ENTITLED

AN ACT

relating to a person's eligibility for an auctioneer's license.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. ^{Subsection (b)} ~~Section 3(b)~~, Chapter 320, Acts of the 64th Legislature, Regular Session, 1975 (Article 8700, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) A person is eligible for an auctioneer's license if the person [he]:

(1) is at least 18 years of age;

(2) has obtained a high school diploma or equivalency certificate;

(3) is a citizen of the United States or a legal alien;

(4) has not, in the five years preceding the date of the license application, been finally convicted of a felony or a misdemeanor involving moral turpitude;

(5) has completed at least 80 hours of education in the field of auctioneering in a program approved by the department;
and

(6) [~~+~~3] either:

(A) [~~+~~+] passes a written or oral examination demonstrating the person's [his] knowledge of the auction business and of the laws of this state pertaining to the auction business;
or

3-29-99

4-6-99

4-6-99

(B) [(i)] shows proof of the person's [his] ^{1/2}
employment by a licensed auctioneer for a period of two years [one
year] during which the applicant participated in at least ten
[five] auctions.

SECTION 2. This Act takes effect September 1, 1999.

SECTION 3. The importance of this legislation and the
crowded condition of the calendars in both houses create an
emergency and an imperative public necessity that the
constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended.

BILL ANALYSIS

Senate Research Center

S.B. 1245
By: Brown
State Affairs
3/24/1999
As Filed

DIGEST

Currently, Texas law requires prospective auctioneers to pass a test that covers the Texas Auctioneers License Act and the Texas Department of Licensing and Regulation Rules regarding auctioneers. There are more than 100 state and federal rules and regulations covering items that auctioneers sell on a regular basis. Several thousands of dollars have been collected from auctioneers for failing to adhere to the law regarding auctioneers. Also, auctioneers may have control of a client's lifetime savings through business or personal assets, and are not required to have the education to keep abreast of changing laws and rules to prevent legal problems and protect consumers. This bill would require a prospective auctioneer to meet certain education and background requirements to be considered eligible to receive an auctioneer's license.

PURPOSE

As proposed, S.B. 1245 sets forth requirements for eligibility to receive an auctioneer's license.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 3(b), Article 8700, V.T.C.S., to provide that a person who has obtained a high school diploma or equivalency certificate, has not been convicted of a felony or certain misdemeanors in five years prior to the date of the license application, has completed at least 80 hours of education in the field of auctioneering in a certain program, and shows proof of employment by a licensed auctioneer for a period of two years, rather than one, during which the applicant participated in at least 10, rather than five, auctions, is eligible for an auctioneer's license. Makes conforming changes.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Emergency clause.

1 By: Brown S.B. No. 1245
2 (In the Senate - Filed March 11, 1999; March 11, 1999, read
3 first time and referred to Committee on State Affairs;
4 March 29, 1999, reported favorably by the following vote: Yeas 8,
5 Nays 0; March 29, 1999, sent to printer.)

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17 certificate;

18 (3) is a citizen of the United States or a legal
19 alien;

20 (4) has not, in the five years preceding the date of
21 the license application, been finally convicted of a felony or a
22 misdemeanor involving moral turpitude;

23 (5) has completed at least 80 hours of education in
24 the field of auctioneering in a program approved by the department;
25 and

26 (6) [~~3~~] either:

27 (A) [~~+~~] passes a written or oral examination
28 demonstrating the person's [his] knowledge of the auction business
29 and of the laws of this state pertaining to the auction business;
30 or

31 (B) [~~+~~] shows proof of the person's [his]
32 employment by a licensed auctioneer for a period of two years [one
33 year] during which the applicant participated in at least ten
34 [five] auctions.

35 SECTION 2. This Act takes effect September 1, 1999.

36 SECTION 3. The importance of this legislation and the
37 crowded condition of the calendars in both houses create an
38 emergency and an imperative public necessity that the
39 constitutional rule requiring bills to be read on three several
40 days in each house be suspended, and this rule is hereby suspended.

41 * * * * *

FAVORABLE
SENATE COMMITTEE REPORT ON

SB SCR SJR SR HB HCR HJR 1245
By Brown
(Author/Senate Sponsor)
3/29/99
(date)

We, your Committee on STATE AFFAIRS, to which was referred the attached measure,
have on 3/25/99, had the same under consideration and I am instructed to report it
(date of hearing)
back with the recommendation (s) that it:

- ☒ do pass and be printed
☐ do pass and be ordered not printed
☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☐ yes ☐ no

An actuarial analysis was requested. ☐ yes ☐ no

Considered by subcommittee. ☐ yes ☐ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Shapiro, Chair	<input checked="" type="checkbox"/>			
Senator Shapleigh, Vice-Chair	<input checked="" type="checkbox"/>			
Senator Bernsen	<input checked="" type="checkbox"/>			
Senator Brown	<input checked="" type="checkbox"/>			
Senator Cain	<input checked="" type="checkbox"/>			
Senator Haywood	<input checked="" type="checkbox"/>			
Senator Lucio	<input checked="" type="checkbox"/>			
Senator Nixon			<input checked="" type="checkbox"/>	
Senator Wentworth	<input checked="" type="checkbox"/>			
TOTAL VOTES	8	0	1	0

COMMITTEE ACTION

S260 Considered in public hearing
S270 Testimony taken
Andy B. Wattigham
COMMITTEE CLERK

Shapiro
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill
Retain one copy of this form for Committee files

WITNESS LIST

SB 1245
SENATE COMMITTEE REPORT
State Affairs Committee

March 25, 1999 - 12:30P

For: Sample, Jim (Sample & Son Auction Service), San Marcos
Sisk, John (CAI) (Texas Auctioneers Association), Pettus
Swigert, Jim (Texas Auctioneers Association), College Station
Against: Fisher, John W. (Self), Temple
Lange, Eddy (Self), Temple

Registering, but not testifying:

For: Garner, Ronnie, Jr. (Texas Auctioneers Association), Waco

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3/24/1999
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SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 3(b), Article 8700, V.T.C.S., to provide that a person who has obtained a high school diploma or equivalency certificate, has not been convicted of a felony or certain misdemeanors in five years prior to the date of the license application, has completed at least 80 hours of education in the field of auctioneering in a certain program, and shows proof of employment by a licensed auctioneer for a period of two years, rather than one, during which the applicant participated in at least 10, rather than five, auctions, is eligible for an auctioneer's license. Makes conforming changes.

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SECTION 3. Emergency clause.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

March 18, 1999

TO: Honorable Florence Shapiro, Chair, Senate Committee on State Affairs

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1245 by Brown, J. E. "Buster" (Relating to a person's eligibility for an auctioneer's license.), **As Introduced**

No significant fiscal implication to the State is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation

LBB Staff: JK, SD, CB

April 6 1999 Engrossed
Daisy Spaw
Engrossing Clerk

By: Brown

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MAR 11 1999

Filed with the Secretary of the Senate

MAR 11 1999

Read and referred to Committee on STATE AFFAIRS

MAR 29 1999

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

APR 06 1999

Senate and Constitutional Rules to permit consideration suspended by:

unanimous consent

____ years, ____ nays

APR 06 1999

Read second time, _____, and ordered engrossed by:

unanimous consent

~~a viva voce vote~~

____ years, ____ nays

APR 06 1999

Senate and Constitutional 3 Day Rule suspended by a vote of 29 yeas, 1 nays.

APR 06 1999

Read third time, _____, and passed by:

A viva voce vote

____ yeas, ____ nays

Larry King

SECRETARY OF THE SENATE

OTHER ACTION:

April 6, 1999

Engrossed

April 7, 1999

Sent to House

Engrossing Clerk

Ratsy Spaw

APR 07 1999

Received from the Senate

APR 08 1999

Read first time and referred to Committee on Licensing & Administrative Procedures

Reported ____ favorably (as amended) (as substituted)

Sent to Committee on (Calendars) (Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote) (record vote of ____ yeas, ____ nays, ____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of ____ yeas, ____ nays, ____ present, not voting.

Read third time (amended); finally passed (failed to pass) by a (non-record vote) (record vote of ____ yeas, ____ nays, ____ present, not voting)

Returned to Senate.

Returned from House without amendment.

Returned from House with ____ amendments.

Concurred in House amendments by a viva voce vote ____ yeas, ____ nays.

CHIEF CLERK OF THE HOUSE

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays